

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

September 11, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

OAHU

Consent to Sublease General Lease No. S-5975, Reduce Reuse Recyclers Services Hawaii LLC, dba RRR Recycling Services Hawaii, Lessee, to Locations Investment, Inc., Sublessee, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-7-036:004 & 016.

APPLICANT:

Reduce Reuse Recyclers Services Hawaii LLC, dba RRR Recycling Services Hawaii, a domestic limited liability company, as Sublessor, to Locations Investment, Inc., a domestic profit corporation, as Sublessee.

LEGAL REFERENCE:

Section 171-36(a)(6), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-7-036:004 & 016, as shown on the attached map labeled Exhibit A.

SUBLEASE AREA:

18,300 square feet, more or less.

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: YES \_\_\_\_\_ NO X

LEASE CHARACTER OF USE:

Commercial parking Lot or garage purposes. No ancillary structures or uses shall be permitted excepted as permitted by the Chairperson.

SUBLEASE CHARACTER OF USE:

Commercial parking lot or garage purposes.

TERM OF LEASE:

15 years, commencing on September 1, 2009 and expiring on August 31, 2024. No rental reopening during the term, except the annual base rent shall be increased by 10% after the 10th year.

TERM OF SUBLEASE:

15 years, commencing on September 1, 2009 and expiring on August 31, 2024.

ANNUAL RENTAL:

The greater of \$85,000 or three (3) percent of lessee's gross annual revenue.

ANNUAL SUBLEASE RENTAL:

\$63.996.00.

RECOMMENDED ADJUSTMENT TO LEASE RENTAL:

Not applicable. (Refer to Exhibit B attached for review by staff appraiser on sandwich calculations.)

DCCA VERIFICATION:

SUBLESSOR:

Place of business registration confirmed:	YES	<u>X</u>	NO	<u>      </u>
Registered business name confirmed:	YES	<u>X</u>	NO	<u>      </u>
Good standing confirmed:	YES	<u>X</u>	NO	<u>      </u>

SUBLESSEE:

Place of business registration confirmed:	YES	<u>X</u>	NO	<u>      </u>
Registered business name confirmed:	YES	<u>X</u>	NO	<u>      </u>
Good standing confirmed:	YES	<u>      </u>	NO	<u>X</u>

According to the website of the Department of Commerce and Consumer Affairs, the Sublessee has not filed the 2009 return. Subject to today's approval, staff will ensure the Sublessee file the proper return as requested prior to signing of any consent document by the Chairperson.

REMARKS:

On February 8, 2008, the Board approved the sale of a 65-year commercial ground lease by public auction.

Notwithstanding the Board's decision, the community and the area legislators believe the property should only be used a public parking to accommodate the needs for the residents and businesses. On July 11, 2008, the Board amended its prior action by restricting the use to commercial parking lot or garage purposes.

During the interim period, a revocable permit was issued to Resco, Inc. (owner of the adjacent office building) to operate as a public parking.

The public auction was conducted on June 29, 2009. Reduce Reuse Recyclers Services Hawaii LLC, dba RRR Recycling Services Hawaii (RRR) was the highest bidder with the final bid at \$85,000.

According to the application submitted for the auction, RRR plans to use a portion of the premises to set up a State certified redemption center with the remainder being available for public parking. During the review process of the application, the screening committee noted that the number of parking stalls, under such proposal, will not be less than the same number provided by Resco, Inc. under the revocable permit. Therefore, the proposed redemption center can be considered as an ancillary use of the parking lot, subject to the Chairperson's approval. Subsequently, approval from the Chairperson was obtained.

Locations Investment Inc. has reached a tentative agreement with the Sublessor to sublease about 75% of the total area for parking lot.

The layout of the sublease agreement attached as Exhibit C shows 60 out of a total 77 stalls will be available to the public. Ten (10) stalls will also become available after 5:30 pm daily, i.e. after RRR's redemption kiosk stops operating.

Staff understands that during daytime on the weekdays, the parking lot is not normally full. The users during these periods are mainly the employees and visitors of the adjacent office building. Staff has talked with the representative of Resco, Inc. and notes that patrons of the nearby businesses are the users of the parking lot at night and the weekends. With this pattern of usage and the notion that the proposed sublease will not deprive or reduce any parking for the public, staff believes the original intention to provide public parking is not jeopardized.

According to the analysis prepared by the staff appraiser, there is no sandwich rent involved in the subject request. Staff would point out that rent payable under the proposed sublease is considered as "other revenues from the Lessee's use of the leased premises" in calculating the annual gross revenue pursuant to the lease conditions.

There is no lease compliance issue with the Sublessor as the

subject master lease has recently commenced.

Staff did not solicit comments from any agency or community since the request will not represent any change of the premises.

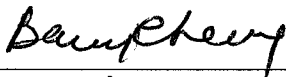
There are no other pertinent issues or concerns, and staff has no objections to the request.

RECOMMENDATION:

That the Board consent to the sublease under General Lease No. S-5975 between Reduce Reuse Recyclers Services Hawaii LLC, dba RRR Recycling Services Hawaii, as Sublessor, and Locations Investment, Inc., as Sublessee, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:

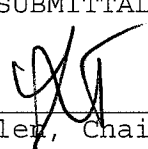

1. The standard terms and conditions of the most current consent to sublease form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

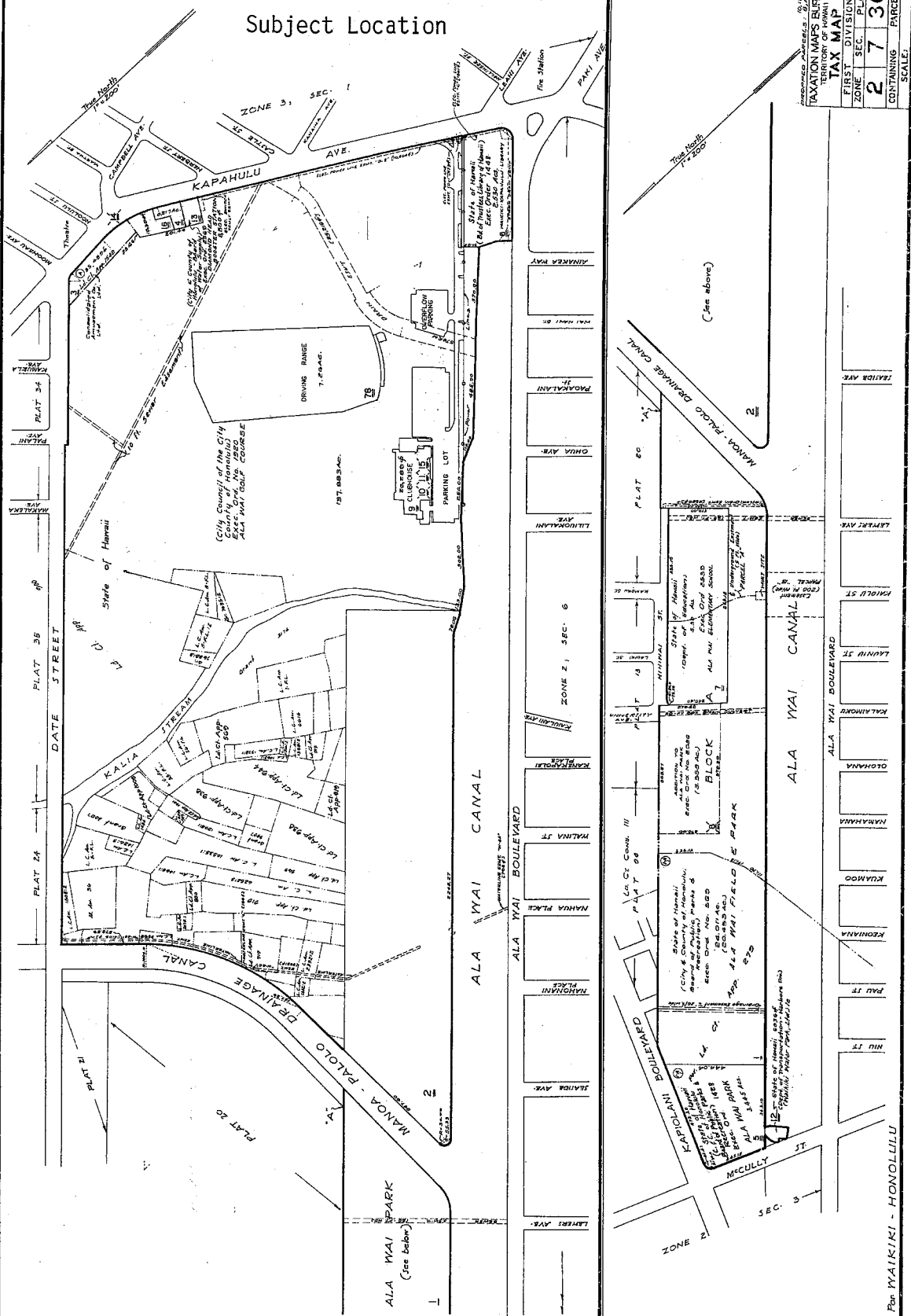


Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

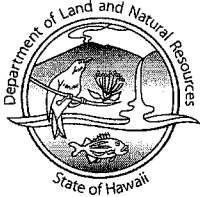
  
\_\_\_\_\_  
Laura H. Thiele, Chairperson 

# Subject Location



TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
FIRST DIVISION	ZONE	SEC.	PLAT
2	7	36	
CONTAINING PARCELS			SCALE

EXHIBIT "A"



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

August 26, 2009

MEMORANDUM

TO: Barry Cheung, Oahu District Land Agent

THROUGH: Morris M. Atta, Division Administrator *Morris M. Atta*

FROM: Cyrus C. Chen, Real Estate Appraisal Manager *Cyrus C. Chen*

SUBJECT: In-House Valuation Recommendation – Sandwich Profit Determination for Sublease Between Reduce Reuse Recyclers Services Hawaii, LLC (Lessee/Sublessor) and Locations Investment, Inc. (Sublessee)

GL No.: S-5975  
Lessee/Sublessor: Reduce Reuse Recyclers Services Hawaii LLC  
Sublessee: Locations Investment, Inc.  
Location: Kapahulu, Honolulu, HI  
Land Area: 24,407 sq. ft.  
Tax Map Key: (1) 2-7-36: 4 & 16  
Char. of Use: Commercial parking or garage

We have been requested to provide an in-house evaluation of the sublease between Reduce Reuse Recyclers Services Hawaii LLC (Lessee/Sublessor) and Locations Investment, Inc. (Sublessee) to see if sublease sandwich profits can be collected. The Lessee, under pending GL S-5975, will lease the property for a recycling operation and sublease the parking area. The lease rent is the greater of \$85,000 per annum or 3% of gross revenues. The sublease rents are \$63,996 per annum.

On January 26, 2001, under agenda item D-8, the Land Board approved an amendment to the Sublease Rent Participation Policy. In applying the formula as stated in the policy to lessees paying fair market rent.

Annual Sublease Ground Rent	\$63,996
Less: General Excise Tax	(\$3,021)
Net Annual Sublease Ground Rent	\$60,975
Less Annual Ground Rent	(\$85,000)
Additional Annual Rent	(\$24,025)

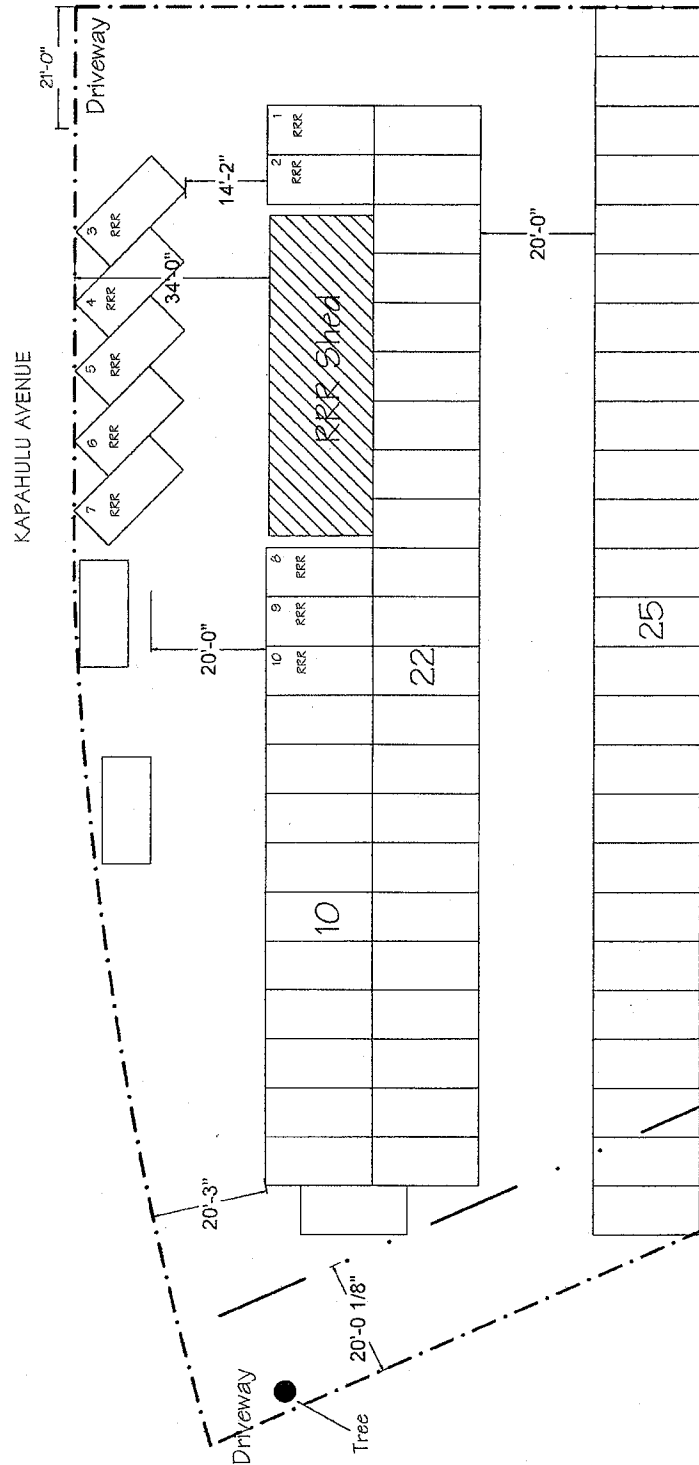
**EXHIBIT "B"**

Multiplied by 50%  
Additional Annual Rent due DLNR

x .50  
(\$12,013)

The calculation of sublease premiums amounts to a negative figure. Therefore, as of the date of this evaluation, Staff recommends no participation in this sublease.

cc: District Branch Files  
Central Files



SCALE 1" = 16'

Total Stalls	77
RRR Stalls	17
Prudential	60

**EXHIBIT "C"**